

REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Final Office Action mailed on June 2, 2009, and the references cited therewith.

Claim 1 is amended, claims 10-11 and 20-21 are canceled, and no claims are added. Claims 1-9, 12-19, and 22-24 are pending in this application.

Applicant has amended claim 1 to more clearly recite the claimed subject matter and respectfully submits that none of the amendments herein introduce any new subject matter.

Examiner's Interview Summary

Applicant thanks Examiner Tyson for briefly discussing the present application on February 26, 2010 and March 30, 2010. During the interview, Applicant and the Examiner discussed proposed amendments to the claims. There was a helpful dialogue such that Applicant believes the present claims are in patentable order.

§ 112 Rejection of the Claims

Claims 1-9, 12-19, and 22 were rejected under 35 USC § 112, first paragraph, as failing to comply with the enablement requirement. Applicant has amended independent claim 1 to more clearly recite the claimed subject matter. Insofar as the rejection applies to the amended claim, Applicant respectfully traverses the rejection as follows.

Applicant believes the aforementioned amendment enables one skilled in the art to practice the invention, and the amended claim is described in the specification as originally filed in such a way as to reasonably convey to one skilled in the relevant art that the Applicant had possession of the claimed invention at the time the application was filed.

Additionally, claim 13, as presented, does not include the language discussed on Page 2 of the Office Action and as such Applicant believes that claim 13 does not fail to comply with the enablement requirement.

Accordingly, based on the forgoing, Applicant respectfully requests reconsideration and withdrawal of the 112, first paragraph, rejection of independent claims 1 and 13 as well as those claims which depend therefrom.

§103 Rejection of the Claims

Claims 1, 4-9, 13-14, and 16-19 were rejected under 35 USC § 103(a) as being unpatentable over Stinson, et al. (U.S. Patent No. 6,340,367) and Case, et al. (U.S. Publication No. 2004/0167619). Applicant respectfully traverses the rejection as follows.

From Applicant's review, the Stinson reference does not teach or suggest each and every element as provided in Applicant's independent claims 1 and 13. Furthermore, the Case reference does not appear to cure the deficiencies of the Stinson reference.

For example, Stinson and Case, alone or in combination, do not appear to teach or suggest radio frequency (RF) markers that form generally concentric loops on only an outside surface of the structural material to respectively delineate an outer circumference of the first cell and an outer circumference of the second cell as provided, in part, in Applicant's claim 1. Further, Stinson and Case, alone or in combination, do not appear to teach or suggest radio frequency (RF) markers located only on an outside of the peripheral surface of the structure that respectively delineate outer circumferences of the two or more cells of the structure to emit sufficient RF energy under MRI visualization to disturb hydrogen atom spins of at least one voxel as provided, in part, in Applicant's claim 13.

In contrast to Applicant's claims, Stinson appears to teach discrete permanent markers that are a coil, knot or a ring around feature of the stent (Column 9, lines 9-11) and Case appears to disclose an endoprosthesis comprising markers which may delineate a peripheral circumference of an aperture of the endoprosthesis (Office Action, page 4).

Accordingly, based on the forgoing, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of independent claims 1 and 13 as well as those claims which depend therefrom.

Claims 2-3 and 15 were rejected under 35 USC § 103(a) as being unpatentable over Stinson, et al. (U.S. Patent No. 6,340,367) and Case, et al. (U.S. Publication No. 2004/0167619) as applied to claims 1 and 13 above, and further view of Doran, et al. (U.S. Publication No. 2002/0055770). Applicant respectfully traverses the rejection as follows.

As discussed above, from Applicant's review, the Stinson reference does not teach or suggest each and every element as provided in Applicant's independent claims 1 and 13. Furthermore, the Case reference does not appear to cure the deficiencies of the Stinson reference. Furthermore, the Doran reference does not appear to cure the deficiencies of the Stinson and Case references.

Based on the forgoing, Applicant respectfully requests reconsideration and withdrawal of the §103 rejection of dependent claims 2-3 which depend from independent claim 1 and dependent claim 15 which depends from independent claim 13.

Claims 12 and 22 were rejected under 35 USC § 103(a) as being unpatentable over Stinson, et al. (U.S. Patent No. 6,340,367) and Case, et al. (U.S. Publication No. 2004/0167619) as applied to claims 1 and 13 above, and further view of Jackson, et al. (U.S. Publication No. 2003/0004563). Applicant respectfully traverses the rejection as follows.

As discussed above, from Applicant's review, the Stinson reference does not teach or suggest each and every element as provided in Applicant's independent claims 1 and 13. Furthermore, the Case reference does not appear to cure the deficiencies of the Stinson reference. Furthermore, the Jackson reference does not appear to cure the deficiencies of the Stinson and Case references.

Based on the forgoing, Applicant respectfully requests reconsideration and withdrawal of the §103 rejection of dependent claim 12 which depends from independent claim 1 and dependent claim 22 which depends from independent claim 13.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0125 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being filed electronically with the U.S. Patent and Trademark Office on this 19 day of

April, 2010.

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